

**Public Request for Copy
of Forestry Plan**

Complaint Investigation 010329



FPB/IRC/53

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The Investigation

This investigation is about the adequacy of the public review and comment opportunity for Pope and Talbot's (the licensee) 2001-2005 forest development plan (FDP) for Tree Farm Licence 8 and Forest Licence A18969, in the Boundary Forest District.

The complainant asked the licensee to provide him with a printed copy of the FDP and maps. The licensee offered to e-mail the text of the plan to the complainant, and to provide copies of maps or a printed copy of the FDP for a nominal charge. The complainant did not consider that to be reasonable. The complainant said the plan and maps were essential to understand the FDP, the ministry's land and forest management agenda, and the subsequent incremental and cumulative impacts on the environment. He believed that the FDP and maps should have been made available to him at no charge and in a format that he was able to use.

The Board decided that the investigation would consider the following questions:

1. Did the licensee comply with the *Forest Practices Code of British Columbia Act* and associated regulations (the Code) when it provided an opportunity to review and comment on the 2001-2005 FDP?
2. Was the opportunity to review and comment on the FDP adequate?

Background

The 2001-2005 FDP was available for review and comment between June 6 and August 6, 2001. It was available at the Ministry of Forests' office in Grand Forks and at the licensee's offices in Grand Forks and Midway, BC. The plan was also available at open houses in Grand Forks and Rock Creek.

The complainant lives about 750 kilometres from Grand Forks. He is interested in biodiversity, old growth and grizzly bear issues, and has commented on FDPs in the past. The complainant told Board staff that he requires hundreds of hours to review, analyse and interpret an FDP. The complainant finds that a hard copy of the FDP and maps is the most convenient and functional way for him to review a plan.

On June 5, 2001, the complainant sent a fax to the licensee asking for a printed copy of the FDP. On June 6, the licensee replied by fax indicating that the best option for the complainant would be to review the plan at its offices. The licensee indicated that if that was not possible, other arrangements could be discussed.

The complainant left a voice mail message with the licensee on June 11, 2001, indicating that he required a hard copy of the FDP. On June 15, 2001, the licensee sent a fax to the complainant asking for his e-mail address so that the FDP text and tables could be sent to him. On June 18, 2001, the complainant sent a fax to the licensee indicating that he required a hard copy of the FDP and a working set of maps, even if in black and white format.

On June 22, 2001, the licensee sent a fax to the complainant stating that it was difficult to understand why the complainant did not want the FDP sent via e-mail. Nevertheless, the licensee stated that if the complainant insisted on receiving a hard copy, it would be provided for \$36.00 to cover costs. The licensee also offered to provide colour maps for \$13.68 each, plus

shipping. The licensee told the Board that the \$13.68 price per map was consistent with the government's fee schedule for requests made under the *Freedom of Information and Protection of Privacy Act*. The FDP included 63 map sheets, so the total cost of all the maps would be about \$860.00.

The complainant wrote to the Ministry of Forests on July 9, 2001, stating that the licensee refused to provide adequate documentation to allow effective and widespread public comment on the FDP. The complainant asked the district manager to instruct the licensee to provide him with the FDP and maps. In a separate letter sent that same day, the complainant asked the district manager to extend the review and comment opportunity by 45 days, provided that the licensee provided him with a copy of the FDP at no cost.

The complainant submitted his complaint to the Board on July 11, 2001.

On July 12, 2001, the district manager responded to the complainant's requests. The district manager stated that the licensee complied with applicable legislation, and that he was not prepared to extend the public review and comment opportunity.

Relevant Legislation

Forest Practices Code of British Columbia Act - Section 39 (Review and comment)

Operational Planning Regulation - Sections 27(1), 27(4), and 27(8) (Review)

Discussion and Reasoning

1. Did the licensee comply with the Code when it provided an opportunity to review and comment on the 2001-2005 FDP?

Section 39 of the Act states, in part, that before a holder of a major licence submits an operational plan for approval, the holder must make the plan or amendment available for review and comment. Section 27 of the *Operational Planning Regulation* requires a licensee to provide an opportunity to review a proposed forest development plan to members of the public interested in or affected by operations under the proposed plan. The opportunity to review a plan must be for a period of 60 days.

The licensee made the FDP available to the public for review and comment at its offices for a period of 60 days between June 6 and August 6, 2001. The licensee complied with section 39 of the Act and sections 27(1) and 27(4) of the *Operational Planning Regulation*.

2. Was the opportunity to review and comment on the FDP adequate?

Section 27(8) of the *Operational Planning Regulation* states, in part, that an opportunity for review provided to an interested or affected person will be adequate only if, in the opinion of the district manager, the opportunity is commensurate with the nature and extent of that person's interest in the area under the plan and any right that person may have to use the area under the plan. The district manager is of the opinion that the review and comment opportunity was adequate. In his July 12, 2001 letter to the complainant, the district manager stated that he was not prepared to grant a 45-day extension to the review and comment period because he believed that the licensee complied with the appropriate legislation.

The Code does not require that a licensee provide copies of an FDP directly to members of the public. It requires that the public be given an opportunity to review a plan, and usually this means that a plan is made available at the offices of a licensee and the Ministry of Forests. In this case, the licensee offered to e-mail the plan to the complainant. The complainant felt that was unacceptable. He described himself as not being proficient in electronic communications, and in any event, the maps could not be transmitted to him. In response, the licensee offered to copy the plan and maps for a charge to cover costs.

The complainant was not prepared to accept that offer because he felt that the cost of reviewing the plan and the responsibility for obtaining the information was unfairly being transferred onto him. The complainant believes that in an effective and meaningful public review process, the licensee is responsible for providing the information to the public in a usable form.

In the Board's view, a licensee must provide an opportunity to review and comment on a FDP, but the public also has an obligation to make reasonable efforts to take advantage of that opportunity. The licensee's offer to e-mail the plan or provide a copy at cost was reasonable, and in fact, went beyond Code requirements.

In summary, the Board is of the opinion that the opportunity to review the plan was adequate.

It seems likely that the licensee and the complainant could have worked together to ensure that the complainant could successfully receive an electronic copy of the plan. With respect to the maps, the licensee and the complainant could have identified the individual maps of interest to the complainant, or the preparation of an overview map, to help reduce the cost. The Board notes that communication between the licensee and complainant was solely by fax and voice mail messages. The Board recommends that in future, the complainant and licensee make efforts to communicate in person or on the phone with the aim of improved cooperation and communication.

Conclusions

1. The licensee complied with section 39 of the Act and sections 27(1) and 27(4) of the *Operational Planning Regulation* when it provided an opportunity for the public to review and comment on its FDP.
2. The opportunity to review and comment on the 2001-2004 FDP was adequate.